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AMENDMENTS AND LISTING OF THE CLAIMS

This listing of claims will replace all prior versions and listings of claims in the application.

Claims 1-27 (canceled)

28. (Currently amended) An apparatus for placement on a heart of a patient to treat a heart condition characterized at least in part by diastolic expansion of a size of the heart, the apparatus comprising:

- (a) a jacket comprising flexible open cell material;
 - (i) said flexible open cell material being pre-formed in a ~~cone-shaped jacket~~ cone shape with a base and an apex;
 - (A) said base defining an opening sized to receive a heart;
 - (ii) said ~~cone-shape jacket being sized and adapted to for~~ circumferentially surrounding a heart and exerting a variable amount of pressure on the heart as a function of an amount of dilation of the heart, wherein the amount of pressure increases with increasing dilation of the heart;
 - (A) said flexible open cell material being sufficiently flexible to move with expansion and contraction of a heart and such that force on one portion of a heart is transmitted circumferentially through the ~~cone-shaped jacket~~ material to another portion of the heart.

29. (Previously presented) An apparatus according to claim 28 wherein:

- (a) said material is elastic.

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30. (Previously presented) An apparatus according to claim 28 wherein:
- (a) said jacket is sized to constrain diastolic expansion beyond a predetermined limit.
31. (Previously presented) An apparatus according to claim 28 wherein:
- (a) said material is formed in an open cell construction with a plurality of open cells defined by interconnected, elongated elements.
32. (Previously presented) An apparatus according to claim 28 wherein:
- (a) said jacket is sized to be applied to the epicardium of the heart.
33. (Previously presented) An apparatus according to claim 28 wherein:
- (a) said jacket is sized to be applied to the pericardium of the heart.
34. (Previously presented) An apparatus according to claim 28 wherein:
- (a) said jacket includes a shape memory material.
35. (Currently amended) An apparatus for placement on a heart of a patient to treat a heart condition characterized at least in part by diastolic expansion of a size of the heart, the apparatus comprising:
- (a) a jacket comprising flexible open cell material;
 - (i) said flexible open cell material being pre-formed in a ~~cone-shaped jacket~~ cone shape with a base and an apex;
 - (A) said base defining an opening sized to receive a heart;

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- (B) said ~~cone-shaped~~ jacket being sized and adapted to for surrounding at least a portion of a heart and exerting a variable amount of pressure on the heart as a function of an amount of dilation of the heart, wherein the amount of pressure increases with increasing dilation of the heart; and
- (C) said flexible open cell material comprising an elastic material that moves with expansion and contraction of a heart.

36. (Currently amended) An apparatus according to claim 35 wherein:

- (a) said ~~cone-shape~~ jacket is adapted to circumferentially surround a heart; and
- (b) said elastic material is sufficiently flexible to move with expansion and contraction of a heart such that force on one portion of a heart is transmitted circumferentially through the ~~cone-shaped~~ jacket to another portion of the heart.

37. (Previously presented) An apparatus according to claim 35 wherein:

- (a) said jacket is sized to be applied to the epicardium of the heart.

38. (Previously presented) An apparatus according to claim 35 wherein:

- (a) said jacket is sized to be applied to the pericardium of the heart.

39. (Previously presented) An apparatus according to claim 35 wherein:

- (a) said jacket includes a shape memory material.

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40. (Previously presented) An apparatus according to claim 35 wherein:
- (a) said flexible open cell material has a compliance lower than a compliance of a wall of the heart.
41. (Previously presented) An apparatus according to claim 35 wherein:
- (a) said jacket is sized to constrain diastolic expansion beyond a predetermined limit.
42. (Previously presented) An apparatus according to claim 28 wherein:
- (a) said material is inelastic.
43. (Previously presented) An apparatus according to claim 28 wherein:
- (a) said material has a compliance less than a compliance of a wall of the heart.